

BEFORE THE BOARD OF HEARING AID DISPENSERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 24.150.501,)
24.150.2201 and 24.150.2301,)
pertaining to examination,)
continuing education and)
unprofessional conduct)

TO: All Concerned Persons

1. On August 14, 2003, the Board of Hearing Aid Dispensers published MAR Notice No. 24-150-33 regarding the public hearing on the proposed amendment of the above-stated rules relating to examination, continuing education and unprofessional conduct, at page 1779 of the 2003 Montana Administrative Register, issue no. 15.

2. The public hearing was held on September 18, 2003. One witness testified and two written comments were received. A summary of the comments received and the Board's responses are as follows:

COMMENT 1: David Main appeared, testified and submitted a written comment. He stated that he "believes" in specific guidelines regarding cerumen removal of a limited nature with certification by cerumen management training which is occasionally available as continuing education. He also requested the information as to how many complaints had been received involving removal of cerumen.

RESPONSE 1: The Board thanked the commenter and stated that it is required to protect the public health, safety and welfare. As such, the Board believes it necessary to declare that cerumen removal is beyond the scope of practice for hearing aid dispensers. The Board has received complaints which demonstrated injury to clientele of the hearing aid dispenser. For that reason, the Board has determined removal of cerumen is beyond the scope of practice of a hearing aid dispenser and any removal of cerumen is unacceptable.

COMMENT 2: Sandy Harshaw wrote that she would like to know how "numerous" the complaints were, who the people were and what companies are involved. She felt that "it is our right to know what these rules are based on." She went on to state that "If you cannot remove wax in order to perform your job then you no longer have a profession." She also stated that removal of cerumen was necessary to take an impression of an ear. She formally requested that this rule change be permanently dropped.

RESPONSE 2: The Board thanked Ms. Harshaw for her input and stated that removal of cerumen was definitely beyond the scope of practice of hearing aid dispensers. The Board also stated that "even one complaint is too many." The Board does agree that removal of impacted cerumen is necessary to take a proper ear impression, but hearing aid dispensers are not the professionals authorized to perform such an action.

3. After consideration of the comments the Board has amended ARM 24.150.501, 24.150.2201 and 24.150.2301 exactly as proposed.

BOARD OF HEARING AID DISPENSERS
SUSAN KALARCHIK, CHAIR

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
Department of Labor and Industry

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State February 2, 2004.